



# STATE OF CONNECTICUT

OFFICE OF PROTECTION AND ADVOCACY FOR  
PERSONS WITH DISABILITIES  
60B WESTON STREET, HARTFORD, CT 06120-1551

JAMES D. McGAUGHEY  
Executive Director

Phone: 1/860-297-4307  
Confidential Fax: 1/860-297-4305

## **Testimony of the Office of Protection and Advocacy for Persons with Disabilities Before the Judiciary Committee**

Presented by: James D. McGaughey  
Executive Director  
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Thank you for this opportunity to comment on **S.B. No. 954, An Act Concerning the Electronic Recording of Custodial Interrogations**. This bill would establish a rebuttable presumption of inadmissibility of a statement (e.g. confession) obtained from a person suspected of committing a serious crime when that statement was obtained during a custodial interrogation at a place of detention and no recording is made of the interrogation. By operation of the definitions and explicit exceptions listed in the bill, the presumption of inadmissibility would be strictly limited, and could be overcome in a number of circumstances.

Our Office supports this proposal. The video recordings called for in this bill would help safeguard the rights of people with cognitive or psychiatric disabilities who may be subject to interrogations. Many people who have intellectual disabilities (including those who meet the criteria for "mental retardation" as defined in Section 1-1g of the General Statutes), non-verbal learning disabilities, autism-spectrum disabilities, brain injuries and mental illnesses find themselves at a significant disadvantage when being questioned by authorities. Although generalizing is risky and often unfair, there is strong evidence to the effect that people with mental disabilities are often more easily talked into agreeing to do or say things. Some of this is a survival strategy: people who have intellectual disabilities or who experience difficulty reading social cues often cultivate a sense of how to please authority figures and "pass" in situations where they do not fully understand what is happening. In the context of custodial interrogation, relying on such a strategy can prove disastrous. But there is more involved than a desire to pass for "normal" and to please others. Some of the problem also has to do with naiveté and confusion: if you have a mental disability, it is easy to become confused or insecure as to your own recollections of past events, and you are quite likely to accept interpretations offered by others.

Unfortunately, interrogation techniques designed to undermine the resistance of "typical" suspects can so confuse people with mental disabilities that they may falsely confess, perhaps even without recognizing that they have done so. Across the country evidence is mounting that people with mental disabilities are particularly susceptible to falsely confessing when confronted by exhausting, aggressive interrogation tactics. Various studies and investigations into the phenomenon of "false confession" point to a high correlation between mental disability and susceptibility to faulty results from intensive interrogation techniques.

The fact that a person has a cognitive or psychiatric disability is often not immediately apparent to interrogators. When a question of cognitive or psychological function is subsequently raised, having a recording to refer to will likely be very helpful in determining the reliability of the person's statements and the circumstances under which they were obtained. Knowing what was actually said would also go a long way toward preventing wrongful convictions, and assuring that our criminal justice system treats persons with cognitive and psychiatric disabilities fairly. Our Office urges your support for this legislation.

Thank you for your interest. If there are any questions, I will try to answer them.